



Shared Neutrals Program

**A guide to Alternative Dispute Resolution
Under the Albuquerque-Santa Fe Federal Executive Board's
Interagency Voluntary Mediation Process**

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October 2002

Albuquerque-Santa Fe Federal Executive Board Shared Neutrals Program

The Shared Neutrals Program is a program of the Albuquerque-Santa Fe Federal Executive Board (FEB) to provide mediation as an alternative method to resolve workplace disputes. The combined resources of the Federal community will be shared to provide interagency mediators. The program's goal is to resolve workplace disputes at the earliest possible date. Early resolution will result in improved communication within the workforce, a more productive work environment, and reduced cost and time in resolving disputes.

I. What is Mediation?

Mediation is an informal method of resolving disputes with a fellow employee, manager or colleague. In mediation, a neutral person (a mediator) helps two or more persons explore ways to resolve their differences and reach an agreement to best address their interests. Neither party surrenders legal rights or entitlements when using the Shared Neutrals Program. All parties must be willing to resolve the problem for the process to be successful. Mediation, unlike arbitration or court proceedings, has no focus on "placing blame." The mediator has no authority to force a decision on the parties involved. Those involved in the dispute decide what is important and make decisions based on those factors. A mediator assists the parties in becoming "decision-makers." This process establishes communication, which, in turn, leads to increased understanding and allows the participants to create options and solutions to address their concerns.

II. What is the Value of Mediation?

Mediation allows the participants an opportunity to tell their story and be heard. This process allows the persons affected to create their own solutions and examine unique resolutions to a problem, instead of referring the problem to a judge, arbitrator or another outside decision-maker. The participants thereby retain more control in developing realistic and mutually satisfactory solutions.

III. When Should Mediation be Considered?

Mediation may be used in most cases of workplace disagreement, including discrimination complaints, grievances, and other forms of disputes on a case-by-case basis.

This process should be not considered involving criminal activity, government policy, interpretation of collective bargaining contract language, and cases expected to take over 35 hours to mediate.

IV. Agency Participation

A signed **Agency Agreement to Participate (Form A)** qualifies an agency to draw from the roster. The agency must also identify an **Agency Coordinator** to service as a liaison between the Federal Executive Board and the agency. The agency should also identify specific forms they would like to see used (if different from those included in this Handbook), who within the agency is authorized to request a mediation (if different from the Agency Coordinator); and other requirements of the agency. All of these agency-specific items are subject to review and approval by the Shared Neutrals Council.

In the first year of their commitment, participating agencies are not required to contribute a mediator in order to draw from the Roster. Agencies may instead contribute meeting space, logistical support, training funds, printing or other support. In the second year, most agencies will be encouraged to contribute a mediator to the Roster. Exceptions can be negotiated with the Shared Neutrals Council.

The most important contributions an agency can make to the program are to provide cases for mediation and agree to comply with the provisions in the settlement agreement.

V. Shared Neutrals Council

The Shared Neutrals Council is the governing body for the Albuquerque-Santa Fe FEB Shared Neutral's Program. Seven to ten members will be appointed by the FEB and will include representatives of member agencies. The Executive Director of the Albuquerque-Santa Fe FEB will serve as an ad hoc member of the council.

Membership should include the following groups: mediators, agency coordinators, and union representatives. Responsibilities include: review and supervision of the roster, case intake, data collection and analysis, outreach, (making sure people understand the program is available), system analysis (continually improving structure of the program), program development (making other types of ADR available) mediator education (orientation, requests for training courses, opportunity to co-mediate) observation (evaluation of mediators), and planning and conducting an annual meeting for the mediators.

At the beginning of each year, the Council will elect a Chair and Vice-Chair from the members of the Council. The Council Chair and Vice-Chair will serve for a one-year period beginning on January 1st. Recording duties will be rotated between members.

A. Council Member Terms

The standard term length for Council members will be three years. Initial term lengths should be staggered in six-month increments so that turnover is gradual. Individual Council member terms will begin on either January 1st or June 1st of each year. No member will serve more than one term unless an exception is granted by the Albuquerque-Santa Fe FEB Executive Director in order to maintain the efficiency and continuity of Council activities. Former Council members may be appointed to a new three-year term after one-year absence from the Council.

B. Decision-Making

The group will make decisions on a consensus basis, using the following decision-making process.

1. All substantive issues will be brought to the Council for decision.
2. Decision-making does not rest with any one agency or individual, but rather is a collective process among the Council members.
3. The Council will make decisions via consensus (defined as “a collective opinion arrived at by a group working in an environment that permits open communication so that each person feels s/he has a fair chance to speak”). While the Council will strive for unanimous affirmative decisions, consensus will also include the possibility of one or more members being willing to at least accept (as opposed to fully agreeing with) a given choice.
4. All reasonable effort will be made to obtain consensus.
5. Since consensus relies heavily on discussion and understanding, absent members cannot vote by proxy, but they can send someone to participate in the consensus process.
6. The Council can decide to table an issue to allow for additional discussion and/or time for reflection.
7. Once consensus is reached on a given issue, that issue will not be readdressed unless there is a consensus decision to do so.
8. Members will abide by the decision(s) made in their absence.

C. Council Member Responsibilities

1. Follow through to their best of their ability on the work they agree to accomplish, and to come to meetings prepared.
2. Be responsible for ensuring s/he has the authority needed from their own agency to represent that agency’s view.
3. Participate fully, and to raise issues, concerns, and opinions as they arise.
4. All reasonable effort will be made to provide advanced information on issues to be decided.
5. Meetings will start on time.

VI. Who are the Mediators?

A. The Roster

A Roster of Mediators will be prepared and maintained by the Shared Neutrals Council. The Roster will include persons who meet the following requirements:

1. Designated by a participating agency;
2. Complete a **Mediator Application (Form J)**. This application includes questions regarding the applicant's education and training, work background, availability, and interest in mediating;
3. Demonstrate an ongoing participation and interest in mediation;
4. At least 24 hours of formal mediation training. Person who have already completed this requirement are not required to complete additional training;
5. Complete a program orientation. Program orientations will be provided as part of an annual meeting of program mediators, as part of the formal mediation training offered through FEB and new mediators, or as otherwise offered by the Shared Neutrals Council.
6. Meet established mediation experience requirements:
 - a. Persons who have completed five or more solo mediations will be included on the Roster;
 - b. All other applicants will be expected to observe mediations conducted by an experienced mediator, and then mediate disputes under the observation of an experienced mediator. Based on the evaluations by the experienced mediator and evidence that they meet the other program requirements, the Shared Neutrals Council will approve individuals for inclusion on the Roster.
7. Subscribe to specified ethical standards as described below.
8. Complete no less than six (6) hours of approved continuing education each year addressing alternative dispute resolution.

B. Training Requirements

In order to qualify for inclusion on the FEB Shared Neutrals roster, all mediator applications are required to complete at least 24 hours of approved formal training, with an emphasis on experiential learning. The training must include both lecture and role-playing. The following topics must be addressed:

1. Conflict resolution and mediation theory, including the causes of conflict, interest-based versus positional bargaining and models of conflict resolution.
2. Mediation skills and techniques including information gathering skills, communication skills, problem-solving skills, interaction skills, conflict management skills, negotiating techniques, causing, cultural and gender issues and power balancing.
3. Components in the mediation process, including an introduction to the mediation process, fact gathering, interest identification, option building, problem solving,

agreement building, decision making, closure, drafting agreements, and evaluation of the mediation process.

4. Mediator conduct, including conflicts of interest, confidentiality neutrality and ethics.

C. Annual Continuing Education Requirements for Mediators

In order to maintain and develop conflict resolutions skills, all mediators listed on the FEB Shared Neutrals Roster must annually complete not less than six (6) hours of continuing professional education in the alternative dispute resolution field. The Shared Neutrals Council will conduct at least one (1) annual training conference for all mediators and coordinators that will satisfy the continuing education requirement. Mediators may satisfy the continuing education requirement through attendance in training sponsored by outside agencies, however, proof of completion must be provided to the Shared Neutrals Council. Whether continuing education is completed through the FEB sponsored training conference or through training sponsored by other agencies, all mediators must complete the **Mediator Continuing Education** form (**Form J1**) and return it to the Shared Neutrals Council no later than December 31st of each calendar year. Mediators who have not completed the continuing education requirement will be listed as “inactive” on the FEB Shared Neutrals Roster.

D. Conduct Standards

The conduct of mediators in this program will be governed by the following standards:

1. **Self-Determination:** Self-determination is the fundamental principle of mediation. It requires that the mediation process rely upon the ability of the parties to reach a voluntary, uncoerced agreement. Any party may withdraw from mediation at any time.
2. **Impartiality:** A mediator shall mediate only those matters in which s/he can remain impartial and evenhanded. If at any time the mediator is unable to conduct the process in an impartial manner, s/he is obligated to withdraw.
3. **Conflict of Interest:** A conflict of interest is any action or relationship that might create an impression of possible bias. The basic approach to questions of conflict of interest is consistent with the concept of self-determination. The mediator has a responsibility to disclose all actual and potential conflicts that are reasonably known and could reasonably be seen as raising a question about impartiality.
4. **Competence:** A mediator will mediate only when s/he has the necessary qualifications to satisfy the reasonable expectations of the parties.
5. **Confidentiality:** A mediator will maintain the reasonable expectation of the parties with regard to confidentiality.
6. **Quality of the Process:** A mediator shall conduct the mediation fairly, diligently, and in a manner consistent with the principle of self-determination.

VII. Who are the Agency Coordinators?

The agency Coordinator manages the distribution of information about the availability of the mediation within the agency and how the FEB Shared Neutrals Program can be used. The information will include details on the process for making referrals for mediation to the Agency Coordinator, such as, who can make them, how to make them, and other details of the process. See **Form D** in the Forms Appendix.

VIII. How does the Mediation Process Work?

- A. The Agency Coordinator contacts the FEB Shared Neutrals Program at (505) 248-6415. A member of the Council will return the call and ask for the following:
 - ▶ Target date(s) for mediation
 - ▶ Copy of signed **Request for Mediation Services (Form B)**
- B. The Shared Neutrals Council assigns a mediator.
- C. The assigned mediator contacts the disputants and the Agency Coordinator to schedule the time and place for mediation.
 1. The time will depend on the availability of both the disputants and the mediator.
 2. The place is to be arranged in coordination with all parties. The Agency Coordinator is responsible for coordination and for assuring that the designated site is properly equipped with flipcharts, refreshments, etc.
 3. Issues of confidentiality and the wiliness of the disputants to participate in the mediation process excludes observers, other than representatives, from sitting in on any stage of mediation, unless approved in advance by the mediator and agreed upon by all parties to the mediation.
 4. Representatives: Each party may bring one representative to act as an advisor in the mediation process. Parties have a free choice of representative and are responsible for any representative expenses involved. If a party elects representation, the representative's name and phone number will be identified on the **Request of Mediation (Form B)**. Representatives must also sign the **Agreement to Mediate (Form C)** prior to participating in the mediation. In all cases that settle, the representatives of the parties will also sign the **Settlement Agreement (Form F)**. Parties are responsible for all arrangements and expenses related to the appearance of their representatives at the mediation.
- D. The Agency Coordinator will ensure that the mediators are provided with any necessary agency background information, including identifying likely agency officials who are authorized to make a decision on the dispute.

- E. The Agency Coordinator will assist the mediator in contacting the officials necessary to authorize the agreement.
- F. The follow-up and documentation of the mediation process will include:
 - 1. Scheduling of a follow-up mediation session as necessary.
 - 2. If a settlement is reached, documentation of the settlement agreement with approving signatures of participants and representatives (if present).
(Settlement Agreement – Form F)
 - 3. Evaluation of the process by participants and mediator(s). **(Participant Survey – Form G; Mediator Evaluation of Process – Form H)** Completed forms evaluating the process are maintained by the FEB Shared Neutrals Council in a sanitized form only. (i.e. all identifying information is deleted)
 - 4. If a settlement is reached, copies of the **Settlement Agreement (Form F)** are provided to each participant. The Agency Coordinator maintains one copy.
 - 5. A Mediator Survey is completed and submitted to the FEB Shared Neutrals Council within five business days after the completion of the mediation.
(Mediator Evaluation of Process – Form H)
 - 6. All notes are destroyed.
- G. Settlement
 - 1. A settlement is only binding if approved and signed by all disputants and, as necessary, by appropriate agency officials.
 - 2. When agency approval and/or action is required, only officials with delegated settlement authority may enter into a settlement.
 - 3. The Agency Coordinator will maintain a completed settlement agreement.

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October 2002